

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

SHERMAN DIVISION

DAVID SAGUIL, #21028-078	§	
VS.	§	CIVIL ACTION NO. 4:16cv650
		CRIMINAL NO. 4:13cr55(01)
UNITED STATES OF AMERICA	§	

ORDER OF DISMISSAL

Petitioner David Saguil, a prisoner confined at U.S.P. Tucson, brings this motion to vacate, set aside or correct his sentence pursuant to 28 U.S.C. § 2255. The motion was referred to United States Magistrate Judge Christine A. Nowak, who issued a Report and Recommendation (Dkt #8) concluding that the motion should be denied. Saguil has filed objections (Dkt #9).

Saguil is in custody pursuant to a conviction for the offense of production of child pornography (two counts), in violation of 18 U.S.C. §§ 2251(a) and (e). He argues that he is entitled to relief for the following reasons:

1. The police failed to advise him of his rights and interrogated him in violation of principles espoused in *Miranda v. Arizona*, 384 U.S. 436 (1966);
2. Defense counsel provided ineffective assistance of counsel in violation of principles espoused in *Strickland v. Washington*, 466 U.S. 436 (1984); and
3. The Indictment was impermissibly duplicitous and multiplicitous.

The Magistrate Judge carefully and correctly explained why the claims lack merit. Saguil's objections did not address the Report and Recommendation; instead, he merely complained that he did not receive a copy of the Government's response. Since his objections were non-responsive to the Report and Recommendation, he was given a second chance to file objections that address the

merits of the case and the findings by the Magistrate Judge. He did not timely file any additional objections.

The Report of the Magistrate Judge, which contains her proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and having made a *de novo* review of the objections raised by Saguil to the Report, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and Saguil's objections are without merit. Therefore, the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court. It is accordingly

ORDERED that the motion to vacate, set aside or correct Saguil's sentence (Dkt. #1) pursuant to 28 U.S.C. § 2255 is **DENIED** and the case is **DISMISSED** with prejudice. A certificate of appealability is **DENIED**. All other motions not previously ruled on are hereby **DENIED**.

SIGNED this 21st day of August, 2019.


AMOS L. MAZZANT
UNITED STATES DISTRICT JUDGE